

## CERTIFICATE OF MAILING BY FACSIMILE

I hereby certify that this correspondence is being transmitted by telephone to (703) 872-9306 and addressed to: Mail Stop  
Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313 on October 7, 2004.

*Beverly S. Carter*  
Beverly S. Carter

04 OCT 07 PM 12:27

**MORRISON & FOERSTER LLP**

Attorneys at Law  
555 West Fifth Street  
Suite 3500

Los Angeles, California 90013-1024  
Telephone: (213) 892-5200  
Facsimile: (213) 892-5454

RECEIVED  
CENTRAL FAX CENTER

OCT 07 2004

To: U.S. Patent and Trademark Office  
ATTN: Office of Petitions  
U.S. Serial No.: 09/758,632  
Our Ref.: 39303-20222.00

Facsimile: (703) 872-9306  
Phone: (703) 308-6918

From: Beverly Carter

Date: October 7, 2004

We are transmitting a total of 25 pages (including this page).  
Original or hard copy to follow if this box is checked ☒.

If you do not receive all pages, please call 213-892-5267 as soon as possible.

Preparer of this slip has confirmed that facsimile number given is correct: 9098/BSC *A*

This facsimile contains confidential information which may also be privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not copy, use, or distribute it. If you have received it in error, please advise Morrison & Foerster LLP immediately by telephone or facsimile and return it promptly by mail.

**Comments:**

Please see attached Petition to Withdraw from Issue, RCE, IDS and first page only of six (6) publications. The original documents are being sent by Express Mail.

RECEIVED  
CENTRAL FAX CENTER  
OCT 07 2004

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office, facsimile no. (703) 872-9306, and being deposited with the U.S. Postal Service as Express Mail Airbill No. EV375955995US in an envelope addressed to MS 313(c), Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313 on the date shown below.

Dated: October 7, 2004

Signature:

Marco Jimenez

SPECIAL PROCEDURES SUBMISSION

Docket No.: 393032022200  
(PATENT)

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Yoshiki NISHITANI, et al.

Serial No.: 09/758,632

Filing Date: January 10, 2001

For: APPARATUS AND METHOD FOR  
DETECTING PERFORMER'S MOTION  
TO INTERACTIVELY CONTROL  
PERFORMANCE OF MUSIC OR THE  
LIKE

Examiner: Marlon Fletcher

Group Art Unit: 2837

PETITION TO WITHDRAW APPLICATION FROM  
ISSUE PURSUANT TO 37 CFR 1.313 (c)(2)

Mail Stop 313(c)  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Petitioners hereby petition the Commissioner to withdraw the above-identified application from issue. The Issue Fee in this application was timely paid on February 23, 2004.

On September 21, 2004, an office action citing references was mailed in connection with the related Japanese application. Accordingly, Applicants request withdrawal from issue to file an Information Disclosure Statement (IDS) pursuant to 37 C.F.R. § 1.97 and § 1.98 with a Request for Continued Examination (RCE). The IDS and RCE are enclosed with this petition.

Please charge our Deposit Account No. 03-1952 in the amount of \$130.00 covering the fee set forth in 37 CFR 1.17(h) or (i). Fee transmittal form PTO/SB/17 is enclosed is duplicate.

la-751937

Application No.: 09/758,632

2

Docket No.: 393032022200

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 03-1952, under Attorney Docket No. 393032022200.

Dated: October 7, 2004

Respectfully submitted,

By 

Mehran Arjomand

Registration No.: 48,231

MORRISON & FOERSTER LLP

555 West Fifth Street, Suite 3500

Los Angeles, California 90013

(213) 892-5630

la-751937